

COMMITTEE REPORT

Mr. Speaker: Pursuant to Joint Rule 20, your Committee on Rules and Legislative Procedures, to which was referred Engrossed Senate Bill 379 because it conflicts with SEA 234-2006 without properly recognizing the existence of SEA 234-2006, has had Engrossed Senate Bill 379 under consideration and begs leave to report back to the House with the recommendation that Engrossed Senate Bill 379 be corrected as follows:

- 1 Page 8, delete lines 6 through 42, begin a new paragraph and insert:
- 2 "SECTION 8. IC 4-22-2-28.1, AS AMENDED BY SEA 234-2006,
- 3 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 4 JULY 1, 2006]: Sec. 28.1. (a) This section applies to the following:
- 5 (1) A rule for which the notice required by section 23 of this
- 6 chapter **or by IC 13-14-9-3** is published by an agency ~~after June~~
- 7 ~~30, 2005; or by any of the boards (as defined in IC 13-11-2-18).~~
- 8 (2) A rule for which:
- 9 (A) the notice required by IC 13-14-9-3; or
- 10 (B) an appropriate later notice for circumstances described in
- 11 subsection (g);
- 12 is published by the department of environmental management
- 13 after June 30, 2006.
- 14 (b) As used in this section, "coordinator" refers to the small business
- 15 regulatory coordinator assigned to a rule by an agency under subsection
- 16 (e).
- 17 (c) As used in this section, "director" refers to the director or other
- 18 administrative head of an agency.
- 19 (d) As used in this section, "small business" means any person, firm,
- 20 corporation, limited liability company, partnership, or association that:
- 21 (1) is actively engaged in business in Indiana and maintains its
- 22 principal place of business in Indiana;
- 23 (2) is independently owned and operated;
- 24 (3) employs not more than one hundred (100) full-time
- 25 employees; and
- 26 (4) has gross annual receipts of not more than five million dollars

1 (\$5,000,000).

2 (e) For each ~~(1)~~ rulemaking action and ~~(2)~~ rule finally adopted as a
 3 result of a rulemaking action by an agency under this chapter, the
 4 agency shall assign one (1) staff person to serve as the agency's small
 5 business regulatory coordinator with respect to the proposed or adopted
 6 rule. The agency shall assign a staff person to a rule under this
 7 subsection based on the person's knowledge of, or experience with, the
 8 subject matter of the rule. A staff person may serve as the coordinator
 9 for more than one (1) rule proposed or adopted by the agency if the
 10 person is qualified by knowledge or experience with respect to each
 11 rule. Subject to subsection (f):

12 (1) in the case of a proposed rule, the ~~agency's~~ notice of intent to
 13 adopt the rule **published** under section 23 of this chapter; **or**
 14 **(2) in the case of a rule proposed by the department of**
 15 **environmental management or any of the boards (as defined**
 16 **in IC 13-11-2-18), the notice published under IC 13-14-9-3 or**
 17 **the findings published under IC 13-14-9-8(b)(1), whichever**
 18 **applies;**

19 must include the name, address, telephone number, and electronic mail
 20 address of the small business coordinator for the proposed rule. Subject
 21 to subsection (f), in the case of a rule finally adopted, ~~by the agency,~~
 22 the final rule, as published in the Indiana Register, ~~and the Indiana~~
 23 ~~Administrative Code,~~ must include the name, address, telephone
 24 number, and electronic mail address of the coordinator.

25 (f) This subsection applies to a rule adopted by the department of
 26 environmental management or any of the boards (as defined in
 27 IC 13-11-2-18) under IC 13-14-9. Subject to subsection (g), the
 28 department shall include in the notice provided under IC 13-14-9-3 **or**
 29 **in the findings published under IC 13-14-9-8(b)(1), whichever**
 30 **applies,** and in the publication of the final rule in the Indiana Register:
 31 ~~and the Indiana Administrative Code:~~

32 (1) a statement of the resources available to regulated entities
 33 through the technical and compliance assistance program
 34 established under IC 13-28-3;

35 (2) the name, address, telephone number, and electronic mail
 36 address of the ombudsman designated under IC 13-28-3-2;

37 (3) if applicable, a statement of:

38 (A) the resources available to small businesses through the
 39 small business stationary source technical assistance program
 40 established under IC 13-28-5; and

41 (B) the name, address, telephone number, and electronic mail

1 address of the ombudsman for small business designated under
2 IC 13-28-5-2(3); and

3 (4) the information required by subsection (e).

4 The coordinator assigned to the rule under subsection (e) shall work
5 with the ombudsman described in subdivision (2) and the office of
6 voluntary compliance established by IC 13-28-1-1 to coordinate the
7 provision of services required under subsection (h) and IC 13-28-3. If
8 applicable, the coordinator assigned to the rule under subsection (e)
9 shall work with the ombudsman referred to in subdivision (3)(B) to
10 coordinate the provision of services required under subsection (h) and
11 IC 13-28-5.

12 (g) If the notice provided under IC 13-14-9-3 is not published as
13 allowed by IC 13-14-9-7, the department of environmental management
14 shall publish in the notice provided under IC 13-14-9-4 the information
15 that subsection (f) would otherwise require to be published in the notice
16 under IC 13-14-9-3. If neither the notice under IC 13-14-9-3 nor the
17 notice under IC 13-14-9-4 is published as allowed by IC 13-14-9-8, the
18 department of environmental management shall publish in the
19 commissioner's written findings under IC 13-14-9-8(b) the information
20 that subsection (f) would otherwise require to be published in the notice
21 under IC 13-14-9-3.

22 (h) The coordinator assigned to a rule under subsection (e) shall
23 serve as a liaison between the agency and any small business subject to
24 regulation under the rule. The coordinator shall provide guidance to
25 small businesses affected by the rule on the following:

26 (1) Any requirements imposed by the rule, including any
27 reporting, record keeping, or accounting requirements.

28 (2) How the agency determines or measures compliance with the
29 rule, including any deadlines for action by regulated entities.

30 (3) Any penalties, sanctions, or fines imposed for noncompliance
31 with the rule.

32 (4) Any other concerns of small businesses with respect to the
33 rule, including the agency's application or enforcement of the rule
34 in particular situations. However, in the case of a rule adopted
35 under IC 13-14-9, the coordinator assigned to the rule may refer
36 a small business with concerns about the application or
37 enforcement of the rule in a particular situation to the ombudsman
38 designated under IC 13-28-3-2 or, if applicable, under
39 IC 13-28-5-2(3).

40 (i) The coordinator assigned to a rule under subsection (e) shall
41 provide guidance under this section in response to questions and

1 concerns expressed by small businesses affected by the rule. The
 2 coordinator may also issue general guidelines or informational
 3 pamphlets to assist small businesses in complying with the rule. Any
 4 guidelines or informational pamphlets issued under this subsection shall
 5 be made available:

6 (1) for public inspection and copying at the offices of the agency
 7 under IC 5-14-3; and

8 (2) electronically through electronic gateway access.

9 (j) The coordinator assigned to a rule under subsection (e) shall keep
 10 a record of all comments, questions, and complaints received from
 11 small businesses with respect to the rule. The coordinator shall deliver
 12 the record, along with any accompanying documents submitted by
 13 small businesses, to the director:

14 (1) not later than ten (10) days after the date on which the rule is
 15 ~~file stamped by the secretary of state submitted to the publisher~~
 16 under section 35 of this chapter; and

17 (2) before July 15 of each year during which the rule remains in
 18 effect.

19 The coordinator and the director shall keep confidential any
 20 information concerning a small business to the extent that the
 21 information is exempt from public disclosure under IC 5-14-3-4.

22 (k) Not later than November 1 of each year, the director shall:

23 (1) compile the records received from all of the agency's
 24 coordinators under subsection (j);

25 (2) prepare a report that sets forth:

26 (A) the number of comments, complaints, and questions
 27 received by the agency from small businesses during the most
 28 recent state fiscal year, categorized by the subject matter of the
 29 rules involved;

30 (B) the number of complaints or questions reported under
 31 clause (A) that were resolved to the satisfaction of the agency
 32 and the small businesses involved;

33 (C) the total number of staff serving as coordinators under this
 34 section during the most recent state fiscal year;

35 (D) the agency's costs in complying with this section during
 36 the most recent state fiscal year; and

37 (E) the projected budget required by the agency to comply
 38 with this section during the current state fiscal year; and

39 (3) deliver the report to the legislative council in an electronic
 40 format under IC 5-14-6 and to the Indiana economic development
 41 corporation established by IC 5-28-3."

- 1 Delete pages 9 through 10.
- 2 Page 11, delete lines 1 through 11.
(Reference is to ESB 379 as printed February 14, 2006.)

Representative Whetstone, Chairperson

Representative Pelath, R.M.M.

Representative Heim, Author